

March 16, 2007

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Bingham McCutchen LLP
Suite 300
3000 K Street NW
Washington, DC
20007-5116

202.424.7500
202.424.7647 fax

bingham.com

**Re: Neutral Tandem, Inc. Petition for Interconnection
WC Docket No. 06-159**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("Commission") Rules, 47 C.F.R. § 1.1206, Neutral Tandem, Inc. ("Neutral Tandem") submits this letter to re-emphasize its request that the Commission not delay consideration of the pending Petition for Interconnection by referring the Petition to the Commission's Intercarrier Compensation proceeding ("ICC")¹, but instead grant the Petition on its own merits.

Verizon Wireless has argued that this matter be considered in the Commission's ICC proceeding.² However, this delay-tactic is merely designed to deny consideration of the critical network diversity and homeland security (as well as competitive) issues presented by the Petition by shunting them into the long-standing proceeding aimed at much more complex telecommunications compensation arrangements. As the Commission is aware, the ICC docket is primarily concerned with compensation arrangements between carriers that actually have interconnection arrangements, not the need for physical interconnection between unconnected carriers.

The Petition involves interconnection, not compensation: Neutral Tandem has agreed to pay 100% of the cost of delivering the traffic to Verizon Wireless and Neutral Tandem is not proposing selling Verizon Wireless any services, so no compensation is at issue. As such, the ICC docket is a wholly inappropriate forum for addressing the critical issues raised in the Petition. Further, the two-carrier, fact-specific nature of the Petition is particularly ill-suited for resolution in an industry-wide rulemaking proceeding. Moreover, Neutral Tandem has support among commenters to the Petition, including AT&T, the leading advocate of the Missoula plan, that the Petition should be addressed on its own merits and not held hostage to resolution of the complex issues in the ICC.³

¹ CC Docket No. 01-92.

² See, e.g., Verizon Wireless Comments at 8.

³ See AT&T Reply Comments, at 8, n.26 ("AT&T disagrees...that the merits of the Missoula Plan warrant delay of any individual carrier's request to interconnect with another carrier."). See also COMPTTEL Reply Comments, at 3. For the Commission's convenience, a copy of COMPTTEL's Reply Comments is attached hereto.

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The ICC docket should not be used as a “recycling bin” by parties seeking to delay decisions on issues they would rather the Commission not address. Referral of this important Petition to the ICC proceeding would be a dead-end, and would be entirely contrary to Chairman Martin’s commitment to Congress to apply the lessons learned from Hurricane Katrina, which highlighted the need to strengthen tandem diversity. Dropping this case into the ICC, would place the homeland security of the PSTN behind the corporate interests of Verizon Wireless.

Finally, Neutral Tandem acknowledges that the Commission has discretion to condition its grant of the Petition on the ultimate resolution of the ICC proceeding. The issues raised in the Petition have been pending in three different proceedings at the FCC for three years; the Petition deserves resolution on the merits promptly.

Pursuant to the Commission’s Rules, this letter is being filed in the above-captioned proceeding for inclusion in the public record. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/
Russell M. Blau

Counsel for Neutral Tandem, Inc.

Attachment

cc: Michelle Carey
Catherine Bohigian
Tom Navin

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:)	
)	
Petition of Neutral Tandem, Inc.)	
for Interconnection with Verizon)	WC Docket No. 06-159
Wireless, Inc. Pursuant to Sections)	
201(a) and 332(c)(1)(B) of the)	
Communications Act of 1934, as Amended)	
_____)	

**REPLY COMMENTS OF COMPTTEL IN SUPPORT OF NEUTRAL TANDEM, INC.'S
PETITION FOR INTERCONNECTION WITH VERIZON WIRELESS, INC.**

COMPTTEL respectfully submits these reply comments, pursuant to the Federal Communications Commission's ("Commission") Public Notice released on August 9, 2006 (DA 06-1603), in further support of the Petition for Interconnection with Verizon Wireless ("Verizon Wireless"), Pursuant to Sections 201(A) and 332(c)(1)(B) of the Communications Act of 1934, as amended, filed by Neutral Tandem, Inc. ("Neutral Tandem") in the above-referenced docket.

I. Introduction

COMPTTEL and other commenters, in their initial round of comments, demonstrated that the Commission should grant Neutral Tandem's Petition in the above-referenced case. COMPTTEL hereby replies to Verizon Wireless' comments and, where appropriate, to the other comments filed in this docket.

In particular, COMPTTEL focuses its reply on the following three categories of arguments and issues raised by Verizon Wireless: (1) Verizon Wireless' attempts to dissuade the Commission from ruling on the Petition by mischaracterizing it as a "Petition for Rulemaking" and seeking referral of the issues to the Commission's intercarrier compensation proceeding; (2) Verizon Wireless' insistence that Neutral Tandem's request is not consistent with the public

interest; and (3) Verizon Wireless' anticompetitive conduct in refusing to interconnect with Neutral Tandem.

First, Verizon Wireless' comments feature a fundamental mischaracterization of the nature and purpose of the Petition, as evidenced by its unilateral and unjustified renaming of Neutral Tandem's filing as a "Petition for Rulemaking." Verizon Wireless proceeds to use this label nearly forty times in its comments, the only apparent purpose being to misdirect the Commission to believe that the instant proceeding is far broader and more comprehensive than is warranted. In a similar vein, Verizon Wireless endeavors to deflect attention from the substantive issues by proposing that the Commission defer resolution of Neutral Tandem's request to its intercarrier compensation proceeding, which is inappropriate given the limited and narrowly defined issues before the Commission at this juncture.

Second, Verizon Wireless fails to rebut the public interest aspects of Neutral Tandem's request. Its unpersuasive claims that Commission precedent, network efficiencies and the benefits of redundancy do not support the direct connections requested in the Petition serve only to confirm the comments made by COMPTel and others which demonstrate that the Petition should be granted to further the notable public interest considerations that will result from Commission approval of Neutral Tandem's request.

Third, Verizon Wireless' refusal to interconnect with Neutral Tandem is inappropriate and anticompetitive when its position on facilities-based tandem interconnection is viewed in the context of its corporate affiliate Verizon's stance on resold transit services, the combined effect of which is to improperly stifle the development of competitive tandem services.

COMPTel briefly addresses each of these issues in turn and reiterates its support for the Petition for the reasons stated herein and in its initial comments.

II. Discussion

A. The Commission Should Promptly Act on the *Petition For Interconnection*

Verizon Wireless' arguments attempting to persuade the Commission that it should not rule on the merits of the Petition can be promptly disposed of. Verizon Wireless recasts Neutral Tandem's *Petition for Interconnection* as a "Petition for Rulemaking," in an effort to make the scope of the proceeding appear broader than it really is, hoping the Commission will decline to consider the merits of the Petition because the ramifications of such a decision would allegedly be unduly widespread. Verizon Wireless justifies its re-labeling of the Petition by claiming that "the implications of any Commission Order granting the Petition for Rulemaking would be far broader than Neutral Tandem would have the agency believe," and by asserting, among other things, that the Petition raises issues already before the Commission in its intercarrier compensation docket.¹

In fact, Neutral Tandem's Petition is narrowly drawn and specifically limited to its request that the Commission resolve a clearly delineated, longstanding dispute between it and Verizon Wireless.² Neutral Tandem has not sought to embroil the Commission in questions of general applicability, but merely seeks adjudication of its specific dispute with Verizon Wireless, a request that was apparently necessitated by Verizon Wireless' own intransigence in refusing to interconnect (or even negotiate in good faith) with Neutral Tandem.³

¹ Verizon Wireless Comments at 8-10. COMPTEL notes that Verizon Wireless inconsistently states that Neutral Tandem seeks to have the Commission "intervene in this contractual matter," Verizon Wireless Comments at 5, despite its multiple characterizations of the Petition elsewhere as a "Petition for Rulemaking" with general applicability.

² See Petition at i; COMPTEL Comments at 2.

³ Petition at 3-5.

Furthermore, Verizon Wireless' suggestion that the Commission dismiss the Petition and address the issues raised by Neutral Tandem in its ongoing intercarrier compensation proceeding⁴ can only be viewed as a blatant delay tactic and meritless attempt to convince the Commission to delay resolving a specific matter that has been properly put before it. In marked contrast to the narrow issues before the Commission in this case, the intercarrier compensation proceeding involves multiple and complex matters. The Commission should decline Verizon Wireless' invitation, reject its argument, and act expeditiously as requested by Neutral Tandem.⁵

B. The Petition Should be Granted as Consistent with the Public Interest

Numerous commenters agreed with COMPTTEL's position that the direct connections requested by Neutral Tandem will serve the public interest in accordance with Commission precedent and considerations of network efficiency, redundancy, and the attendant benefits to the public at large.⁶ Verizon Wireless' arguments to the contrary regarding the Commission's prior rulings and other aspects of the public interest calculation are unavailing, and the Commission should reject them.

Verizon Wireless claims that the Commission's *CMRS Interconnection Order* "squarely determined" that it is not in the public interest to require the interconnection sought by Neutral Tandem.⁷ This argument is wrong. As COMPTTEL explained in its Comments, the *CMRS Inter-*

⁴ Verizon Wireless Comments at 9-11.

⁵ Petition at 14-16. See COMPTTEL Comments at 8.

⁶ Integra Telecom Holdings, Inc. Comments at 2 -3; McLeodUSA Telecommunications Services, Inc. Comments at 1-3; Cbeyond, Inc. Comments at 1-3; One Communications Comments at 1.

⁷ Verizon Wireless Comments at 11, citing *Interconnection and Resale Obligations Pertaining to Commercial Radio Services*, Fourth Report and Order, 15 FCC Rcd. 13523 (2000) ("*CMRS Interconnection Order*"). This assertion is echoed in the filings made by other commenters. See Comments of CTIA at 4; Comments of United States Cellular Corporation at 2.

connection Order only speaks to interconnection requests with wireless resellers, and is therefore not aligned with the facts in this case.⁸ Moreover, as COMPTTEL showed, the Commission expressly stated in its reconsideration order that the *CMRS Interconnection Order* did not preclude case-by-case interconnection requests.⁹ Individual case-specific determinations are fully consistent with Commission precedent, and that is precisely what Neutral Tandem has asked the Commission to do in this case.

With regard to network efficiency and redundancy, Verizon Wireless argues that “Neutral Tandem simply duplicates existing indirect connections.”¹⁰ Verizon Wireless, however, does not support this claim. In its comments, COMPTTEL explained that Neutral Tandem’s services provide numerous points of diversity in the PSTN by offering tandem connections that do not rely on ILEC transit and tandem-switched access services.¹¹ The requested interconnection is clearly efficient when viewed in a dual perspective of both operational efficiency and cost savings for competitors who utilize Neutral Tandem’s services as an alternative to the ILEC services,¹² and Verizon Wireless has offered no substantive rejoinder on this issue.¹³ Its position

⁸ COMPTTEL Comments at 7. Verizon Wireless also relies on *Cellnet Communications v. New Par, Inc.*, 15 FCC Red. 13814 (2000) in support of its claim that Commission precedent does not require it to interconnect with Neutral Tandem. Verizon Wireless Comments at 14. As with the *CMRS Interconnection Order*, this case is distinguishable on the ground that it involves wireless resellers, which is a factual predicate not relevant to the instant situation.

⁹ COMPTTEL Comments at 7.

¹⁰ Verizon Wireless Comments at 15

¹¹ COMPTTEL Comments at 3.

¹² See Cbeyond Comments at 1 (“Such competition results in improved service quality and lower rates for carriers like Cbeyond that in turn pass those cost efficiencies and lower costs on to their retail customers”); One Communications Comments at 1 (“[C]ustomers will benefit from having a choice of routes, and the resulting competitive prices....”)

is unpersuasive, and the Commission should reject it in favor of the comprehensive views offered by COMPTTEL and other commenters who have made the requisite public interest demonstration.

C. Verizon Wireless' Anticompetitive Refusal to Interconnect with Neutral Tandem Should be Disallowed

The anticompetitive nature of Verizon Wireless' position is addressed in COMPTTEL's comments and expanded upon in other filings.¹⁴ One of the most striking illustrations of Verizon Wireless' anticompetitive conduct is mentioned in the Petition and emphasized in Integra Telecom Holdings, Inc.'s comments. The Petition explains that Verizon Communications has taken the position that Neutral Tandem may not resell transit services to its carrier customers for the delivery of traffic to Verizon Wireless in territories where Verizon is the ILEC.¹⁵ Integra observes that the combined effect of Verizon Wireless' refusal to interconnect with Neutral Tandem for facilities-based transit and its ILEC affiliate's simultaneously refusal to allow resold transit services amounts to a "squeeze play to maintain a monopoly on tandem services."¹⁶

The "squeeze play" described by Integra aptly summarizes the anticompetitive conduct that distinguishes Verizon Wireless' approach to this case. As COMPTTEL noted in its Com-

¹³ COMPTTEL notes with surprise that neither in connection with its redundancy argument nor elsewhere does Verizon Wireless mention the *Katrina Report*, which COMPTTEL considers to be a significant element of any analysis involving the public interest issues associated with tandem competition and its effect on network reliability and redundancy. See COMPTTEL Comments at 5-6, citing *Report and Recommendation of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks* (June 12, 2006) ("*Katrina Report*"). See also McLeodUSA Telecommunications Services, Inc. Comments at 3 (citing *Katrina Report*).

¹⁴ See COMPTTEL Comments at 3-4; McLeodUSA Telecommunications Services, Inc. Comments at 5; Integra Telecom Holdings, Inc. Comments at 4.

¹⁵ Petition at 5, n. 5.

¹⁶ Integra Telecom Holdings, Inc. Comments at 4.

ments, Verizon Wireless should not dictate whether a third party carrier may use its own facilities, an ILEC's services, or the services of a competitive wholesale provider like Neutral Tandem to deliver terminating traffic to Verizon Wireless.¹⁷ When Verizon Wireless' position on facilities-based tandem interconnection is viewed in the context of Verizon Communications' stance on resold transit services, the unspoken incentive underlying Verizon Wireless' actions becomes apparent and the anticompetitive effects are inescapable.¹⁸ The Commission should decisively reject such conduct by granting the Petition in an expedited fashion.

III. Conclusion

For the foregoing reasons and those explained in COMPTTEL's initial comments, Neutral Tandem's Petition should be granted in its entirety.

Respectfully submitted,

/s/ Karen Reidy
Karen Reidy
COMPTTEL
1900 M Street, NW, Suite 800
Washington, DC 20036
(202) 296-6650

Dated: September 25, 2006

¹⁷ COMPTTEL Comments at 3.

¹⁸ Verizon Wireless concedes that Verizon holds a controlling interest in Verizon Wireless. Verizon Wireless Comments at 22. It contends, however, that Neutral Tandem has failed to show how Verizon Wireless' decision not to renew the contract with Neutral Tandem benefits Verizon. *Id.* Elsewhere, Verizon Wireless asserts that the tandem competition efficiencies cited by Neutral Tandem is obtained with respect to *ILEC tandem service*, but states that Neutral Tandem has not shown why its "redundant, duplicative facilities promote efficiency when they are layered on top of those existing ILEC tandem facilities." *Id.* at 18 (emphasis in original). COMPTTEL submits that Verizon Wireless' anticompetitive motive is clearly evidenced by its statement about the superiority of ILEC tandem service, as it has openly touted the benefits of the entity with whom it would clearly prefer to do business while engaging in the "squeeze play" addressed herein.